



MEMORANDUM

To: PLANNING COMMISSION

Date: March 27, 2007

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: AMENDMENT TO DEVELOPMENT SCHEDULES FOR MEASURE C PROJECTS

REQUEST

Requests to amend the residential development agreements for projects awarded a building allotment under the City's Residential Development Control System (RDCS). The development schedules under Exhibit B of the Development Agreements for the applications in this report are requested to be amended to extend the filing deadlines. Staff also requests that each development schedule be removed from Exhibit B of the Development Agreement and approved under separate Planning Commission Resolution.

RECOMMENDATION

- Applications:
- 1) Open/conduct Public Hearings on agenda items 2a through 2l.
 - 2) Adopt Resolutions recommending approval of the amended Development Agreement for each project; and
 - 3) Adopt Resolutions approving each project's development schedule as amended.

Processing Deadline: 5-17-07

BACKGROUND

In October 2006, the Planning Commission adopted a policy allowing Development Schedules for Measure C projects to be approved by a Resolution of the Planning Commission. Previously, this development schedule was incorporated into the project's Residential Development Agreement as Exhibit "B." Approval of the Development Agreement is a legislative action requiring public hearings before the Planning Commission and City Council and adoption of an ordinance by the City Council. A developer may require an extension of time on one or more of the deadlines in the development schedule. To extend the deadlines, the developer must file an application to amend the Development Agreement and the amendment also requires subsequent

hearings before the Commission and Council and adoption of another ordinance. Under the new policy these steps are no longer necessary other this one time amendment to the Development Agreement to remove the Exhibit B Development Schedule from the document and have the schedule readopted by Resolution. The Development Agreement will still have an Exhibit B Development Schedule with a hard deadline for commencement of construction no later than June 30th of the fiscal year of the building allotment. Other deadlines will continue to be monitored on a quarterly basis through the separate development schedule approved by the Planning Commission.

Given the above change in policy, staff has taken this opportunity to contact all applicants with RDCS allotments to apply to transfer each of those projects's Development Schedule out of the Development Agreement document. Staff is processing these applications in one "batch" in a single hearing before the Planning Commission and City Council. The efficiency of processing all of the applications at once is saving the City time and money. For this reasons we offered all Measure C developers a reduced filing fee to amend their project's development schedule and remove the Development Schedule from the Development Agreement. Applicants for 12 RDCS projects accepted the staff offer and those applications are on the March 27 2007 Planning Commission agenda as items 2a through 2l.

At the March 13, 2007 meeting, the Planning Commission approved a development schedule template that will apply to all Measure C projects beginning with the fiscal year 2008-09 building allotment. Among the changes, the new schedule reduces the lead time required for developers to obtain building permits and delays the filing deadline for Site and Architectural approval until after the Tentative Map had been approved. The Development Schedules for the 12 applications under consideration include extensions on filing deadlines for the current FY 2006-07 allotment and the next fiscal year allotment. Many of these projects have already met the intermediate deadlines and are only requesting extensions on the deadline to obtain building permits and in some cases the June 30th deadline to commence construction. Staff determined that applying the recently approved "template" was not feasible with these application and recommends the Commission consider the amendments to each project's Development Schedule based on the applicant's requested changes. Most applicants provided a letter explaining the reasons for their project's delay and justification for the extensions of time being requested.

Potential for Transfer of Fiscal Year Building Allotments

At the March 13 meeting, the Planning Commission also approved procedures for the transfer of fiscal year building allotments between projects. The following are the rules that apply to a transfer:

1. The transfer of fiscal year building allotments does not apply to the current fiscal year allotment (FY 2006-07) or to building allotments that were extended from the prior fiscal year (FY 05-06) into the current fiscal year.

2. Transfer of building allotments must occur so that the receiving project has sufficient lead time to obtain the building permit and commence construction prior to the June 30 deadline.
3. The transfer must work as a trade between two developments. Transfer allotments cannot be sold to another development.
4. The transfer may apply to partially allocated and fully allocated developments.
5. Both on-going and recently allocated first time projects may transfer building allotments; however, a new, first time project must have an approved vesting tentative map and approved development agreement, if the transfer of allotments occurs after December 31 of the fiscal year.

Staff conducted a survey of all RDCS project developers to determine which projects are able to receive a fiscal year 2007-08 building allotment in trade for a fiscal year 2008-09 or 2009-10 allotment. We identified four projects that would like to trade their fiscal year 2008-09 or 2009-10 allotment for a fiscal year 2007-08 allotment. The four projects are MC-04-13: Barrett – Odishoo; MC-04-21: Barrett – Syncon Homes; MC-04-12: E. Dunne – Dempsey (Jasper Park) and MC-04-22: Jarvis – South County Developers. While these four projects would like to advance the timing of their allotments, none of the current applicants are proposing to trade allotments. In some cases, if a trade of the fiscal year 2007-08 allotment were to occur, the projects under consideration would have to shut down production for a year or delay the start of construction of the following fiscal year allotment, received in trade. While considering each application's request for amendments to the project Development Schedule, it is recommended the Commission discuss with the applicant to possibility of trading their next fiscal year allotment with one of the above projects. The fiscal year 2007-08 allotments in those projects would be replace with the building allotment that is being requested for extension into next fiscal year. One of the four projects, South County Developers, has applied to amend that project's Development Schedule and a transfer of allotments could be accomplished as part of the amendment to each project's Development Agreement. If it is determined that other projects under consideration are willing to transfer allotments, staff will advise applicants for the other three projects to apply to amend their project's Development Agreement and Development Schedule to carry out the transfer at a later date.

Staff has also identified projects with first year 2007-08 allotments that have yet to file any applications for entitlements. Two of those projects are MC-04-04: Diana – Chan and MC-05-12: Depot – The Granary. The Granary project in particular may want to wait another year to take advantage of the higher density that may be allowed as part of Downtown Plan update. The Granary allotment however, can only go to another small vertical mixed use project. If a transfer of fiscal year allotments is not possible with any of the current applications, the purpose of the current application requests will be to amend the project Development Schedules and to remove the Development Schedules for each project's Development Agreement.

PROJECT AMENDMENT REQUESTS:

A. DEVELOPMENT SCHEDULE FOR MEASURE P APPLICATION, MP-03-04: COCHRANE-BORELLO: The applicant is requesting approval of a development schedule for a 15-unit single family residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (7 units).

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 4 month ELBA for FY 2006-07; and approving an 11 month extension of Building Permit Submittal date for FY 2006-07.

B. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-26: COCHRANE-MISSION RANCH: The applicant is requesting approval of a development schedule for a 48-unit single -family residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (18 units).

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 4 month ELBA for FY 2006-07 and approving a 9 month extension of the Obtain Building Permit date for FY 2006-07.

C. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-25: COCHRANE-LUPINE:

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached resolution recommending a four month ELBA for FY 2006-2007 and approving a 14 month extension of the Obtain Building Permit date for FY 2006-07 and 8 month extension of the Obtain Building Permit date for FY, 2007-08 & 2008-09.

D. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-19: E. MAIN-MARRAD/SAN SAVIGNO: The applicant is requesting approval of a development schedule for a 26-unit single-family residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (13 units) and a two-month extension of time is also requested for the Fiscal Years 2007-08 (5 units) and 2008-09 (8 units) building allotments.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution with the following actions:
 - a. Recommending a 4 month ELBA for FY 2006-07;
 - b. Recommend a 2 month ELBA for FY 2007-08 & 2008-09;
 - c. Approve a 3 month extension of the Final Map Submittal dates for FY 2006-07;
 - d. Approve a 1 month extension of Building Permit Submittal date for FY 2006-07;
 - e. Approve 2 month extension of Building Permit Submittal date for FY 2007-08 & 2008-09;
 - f. Approve a 2 month extension of the Obtain Building Permit date for FY 2006-07, 2007-08 & 2008-09;
 - g. Incorporate the 2009-10 allocations into the development schedule;
 - h. Recommend approval of text amendments to clarify per unit costs and include commitments for the FY 2009-10 allocations.

E. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-27:
WRIGHT-MANANA: The applicant is requesting approval of a development schedule for a 15-unit single-family attached residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (7 units).

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 9 month ELBA for FY 2006-07 and approving a 6 month extension of the Obtain Building Permit date for FY 2006-07.

F. DEVELOPMENT SCHEDULE FOR MEASURE P APPLICATION, MP-02-03:
TILTON-GLENROCK: The applicant is requesting approval of a development schedule for an 81-unit single –family multi-family residential development.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending approval of a 4 month ELBA for FY 2006-07 and 1 month extension of Building Permit Submittal date for FY 2006-07.

G. DEVELOPMENT SCHEDULE FOR MEASURE P APPLICATION, MMP-03-01:
NATIVE DANCER-QUAIL MEADOWS: The applicant is requesting approval of a development schedule for a six-unit, custom single-family residential development. A one-year extension of time is also requested for two of the four custom lots.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached resolution recommending a 12 month ELBA for FY 2005-06; a 12 month extension of Building Permit Submittal date for FY 2005-06; and a 12 month extension of the Obtain Building Permit date for FY 2005-06.

H. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-22:
JARVIS-SOUTH VALLEY DEVELOPERS/MADRONE PLAZA: The applicant is requesting approval of a development schedule for a 78-unit multi-family residential development. A six-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (36 units).

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 6 month ELBA for FY 2006-07 and approving a 6 month extension of the Obtain Building Permit date for FY 2006-07.

I. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-05-02:
JARVIS-SOUTH COUNTY HOUSING/MADRONE PLAZA: The applicant is requesting approval of a development schedule for a 95-unit multi-family residential development. A six-month extension of time is also requested.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 6 month ELBA for FY 2007-08 & 2008-09 and approving a 6 month extension of the Building Permit Submittal date for FY 2007-08 & 2008-09 and 6 month extension of the Obtain Building Permit date for FY 2007-08 & 2008-09.

J. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MMC-04-07:

GINGER-CUSTOM ONE: The applicant is requesting approval of a development schedule for a five-unit single-family residential development. An eight-month extension of time is also requested.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 8 month ELBA for FY 2006-07 and approving a 8 month extension of Building Permit Submittal date for FY 2006-07 and 8 month extension of the Obtain Building Permit date for FY 2006-07.

K. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MMC-04-06:

SAN PEDRO-AHMADI: The applicant is requesting approval of a development schedule for a 3-unit multi-family residential development.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 2 month ELBA for FY 2006-07 and approving a 8 month extension of the Obtain Building Permit date for FY 2006-07.

L. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MMC-04-05:

DEL MONTE-GIOVANNI: The applicant is requesting approval to amend the development schedule for a six-unit multi-family residential development. A six-month extension of time is also requested.

Recommendation:

1. Adopt the attached Resolution moving the development schedule out of development agreement.
2. Adopt the attached Resolution recommending a 6 month ELBA for FY 2006-07; approving a 6 month extension of the Final Map Submittal date for FY 2006-07; approving a 6 month extension of the Building Permit Submittal date for FY 2006-07; and approving a 6 month extension of the Obtain Building Permit date for FY 2006-07.

Attachments:

1. Applicant's correspondence
2. Resolutions Recommending Amendment to Project Development Agreements
3. Resolutions Adopting Amended Project Development Schedules.

DAA 04-06
Borello

DIVIDEND HOMES, INC.
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037-2891
(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"

October 16, 2006

Mr. James Rowe
Planning Manager
City of Morgan Hill – Community Development
17555 Peak Ave.
Morgan Hill, CA 95037

PLANNING DEPT.
OCT 17 2006
CITY OF MORGAN HILL

Re: Amend Development Agreement - Ranch at Alicante Phase 2 (7 homes) -- MP-03-004

Dear Mr. Rowe:

I have attached hereto an Application to Amend the Development Agreement for the above referenced project to accomplish the following:

- a. Modify the time periods set forth in Exhibit B to provide for the following:

| | Final Map | Bdlg. Permits | Commence Construction |
|-------------------|-----------|---------------|-----------------------|
| 2006-07 (7 homes) | recorded | 5-30-07 | 10-30-07 |

b. We also request a provision in the Development Agreement which would provide authorization to the Planning Director to extend the dates set forth on Exhibit B, for any of the years, by as much as six months upon presentation of facts to warrant such extension at the discretion of the Planning Director, with any appeal there from requiring an application for an amendment to the Development Agreement. Real Estate Market conditions, including lender unwillingness to fund additional starts due to market conditions, can be considered by the Planning Director in making her decision.

The reason for this delay is because of declining sales, market conditions, and lender reluctance to allow too many starts ahead of sales. Also, this is an ongoing project, with Master Building Plans already submitted and approved so there no need to submit plans so early or require permits to be pulled well in advance of the Hard Deadline for Commencement of Construction. With a double Housing Fee (\$475,000), of which one half has been paid, but additional permits require the payment of the second half, adds to the financial up-front burden. Now that School Fees must be paid prior to permit issuance, and have been increased by almost \$2.00 per square foot (to \$4.95/s.f.) there is a substantial up-front payment of fees required. Lastly, with the rains beginning, it is impossible for us to get the improvements in to allow us to start foundations all 15 prior to the ending of the rainy season. We commenced the improvements in September and should be able to get foundations for the first 8 homes (relying on existing Cochrane Road and St. Marks); however, the remaining 7 homes require internal streets which are not likely to be in place before the first of the year.

Very truly yours,

DIVIDEND HOMES, INC.



Richard B. Oliver, President

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL OF DEVELOPMENT AGREEMENT
AMENDMENT APPLICATION, DAA-04-06: COCHRANE-
BORELLO TO ALLOW FOR A FOUR MONTH
EXTENSION OF THE COMMENCEMENT OF
CONSTRUCTION DATE AND THE TRANSFER OF THE
DEVELOPMENT AGREEMENT PERFORMANCE DATES
OUT OF EXHIBIT "B" OF THE DEVELOPMENT
AGREEMENT AND INTO A SEPARATE RESOLUTION.
(APN 728-34-007)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 15 Building allocations for MP 03-04: Cochrane-Borello; FY 2005-2006, 8 allocations and 7 allocations for FY 2006-07.

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 48 building allocations award to MP 03-04: Cochrane-Borello; and

WHEREAS, the applicant is requesting to amend the approved development agreement to allow for a 4-month extension of the commencement of construction date for the 7, FY 2006-07 allocations; and

WHEREAS, the applicant is requesting to amend the approved development schedule as shown in Exhibit "B" to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-04-06: Cochrane-Borello.

SECTION 2. The Planning Commission recommends approval of the amended development agreement schedule as shown in the attached Exhibit A. The proposed amendment is to allow for a four month extension of the commencement of construction date for 7 building allocations granted for FY 2006-07 and the movement of Sections I-IV of Exhibit B into a separate resolution.

**PASSED AND ADOPTED THIS 27th DAY OF MARCH, 2007, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

Exhibit A

EXHIBIT "B"

**DEVELOPMENT SCHEDULE MP 03-04: Cochrane-Borello
FY 2005-2006 (8 units) AND FY 2006-2007 (7 units)**

| | Currently Approved Dates | Requested Date |
|----------------------------------|-------------------------------------|---------------------------|
| I. COMMENCE CONSTRUCTION: | | |
| FY 2005-2006 (8 units) | 12-30-06 | |
| FY 2006-2007 (7 units) | 06-30-07 | <i>10-30-07</i> |

Failure to commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 8 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING
COMMISSION OF THE CITY OF MORGAN
HILL APPROVING AN AMENDMENT TO
THE DEVELOPMENT SCHEDULE FOR
APPLICATION DA-04-06: COCHRANE-
BORELLO. (APN 728-34-007)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 15 building allotments for application MP-03-04: Cochrane-Borello; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDSCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, on May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 15 building allocations award to MP 03-04: Cochrane-Borello; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDSCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, in accordance with Policy PCP-06-01, the applicant is requesting to amend the development schedule to allow for an 11-month extension of the building permit submittal date the 7, FY 2006-07 allotments; and

WHEREAS, the amended development schedule for application MP-03-04: Cochrane-Borello was considered by the Planning Commission at their regular meeting of March 27, 2007, at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Development Schedule for MP-03-04: Cochrane-Borello attached to this Resolution as Exhibit A.

PASSED AND ADOPTED THIS 27TH DAY OF MARCH 2007, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

**DEVELOPMENT SCHEDULE MP 03-04: Cochrane-Borello
FY 2005-2006 (8 units) & FY 2006-2007 (7 units)**

| | | Currently Approved Dates | Requested Dates |
|---|---|-------------------------------------|----------------------------|
| I. SUBDIVISION AND ZONING APPLICATIONS | | | |
| | Subdivision Application Filed: | 09-13-04 | |
| | Zoning Amendment Application Filed: | 09-13-04 | |
| II. SITE REVIEW APPLICATION | | | |
| | Application Filed: | 10-14-04 | |
| III. FINAL MAP SUBMITTAL | | | |
| | Map: | 06-30-04 | |
| | Improvements Agreement and Bonds: | 06-30-04 | |
| IV. BUILDING PERMIT SUBMITTAL | | | |
| | Submit plans to Building Division for plan check: | | |
| | FY 2005-2006 (8 units) | 09-30-05 | |
| | FY 2006-2007 (7 units) | 06-30-06 | 05-30-07 |
| V. BUILDING PERMITS | | | |
| | Obtain Building Permits: | | |
| | FY 2005-2006 (8 units) | 09-01-06 | |
| | FY 2006-2007 (7 units) | 09-30-06 | |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 7 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

DAA 05-01
Mission Ranch
PLANNING DEPT.
MAR 20 2007
CITY OF MORGAN HILL

MISSION RANCH LP
385 WOODVIEW AVE., SUITE 105
MORGAN HILL, CA 95037
(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"

March 20, 2007

Mr. James Rowe
Planning Manager
City of Morgan Hill – Community Development

Re: Amendment Development Agreement – MC 04-26 – Mission Ranch
Planning Commission Meeting of March 27, 2007

Dear Mr. Rowe:

Since filing the application for the Development Agreement we have encountered additional delays, primarily with the U.S. Government in obtaining a Right of Way across the front of their property (the Cross Valley Pipeline Pumping Plant) in order to widen Peet Road.

Although the Map is ready to record, and permits are ready to be issued (School Fees have been paid), due to the extensive grading and site work, we may be delayed with meeting the deadline for both the issuance of the building permits and the commencement of construction for the homes.

We respect that the Issuance of Permits for Phase 9B be extended to 6/30/07, and Commencement of construction to 10/30/07.

Thank you.

Very truly yours,

Mission Ranch, LP
By: Mission Ranch LLC
General Partner
By: Dividend Homes, Inc.
General Manager



By: Richard B. Oliver
President

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL OF DEVELOPMENT AGREEMENT
AMENDMENT APPLICATION, DAA-05-01:
COCHRANE-MISSION RANCH TO ALLOW FOR A
FOUR MONTH EXTENSION OF THE
COMMENCEMENT OF CONSTRUCTION DATE AND
THE TRANSFER OF THE DEVELOPMENT
AGREEMENT PERFORMANCE DATES OUT OF
EXHIBIT "B" OF THE DEVELOPMENT AGREEMENT
AND INTO A SEPARATE RESOLUTION. (APN 728-32-
010)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 48 building allocations for MP- 04-26 Cochrane-Mission Ranch; 18 building allocations for FY 2006-07, 15 allocations for FY 2007-08 and 15 allocations for FY 2008-09.

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, On May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 48 building allocations awarded to MP-04-26 Cochrane-Mission; and

WHEREAS, the applicant is requesting to amend the approved development agreement to allow for a four month extension of the commencement of construction date for the 18 building allocations for FY 2006-07; and

WHEREAS, the applicant is requesting to amend the approved development schedule as found in Exhibit "B" to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-05-01: Cochrane-Mission Ranch.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit A. The proposed amendment is to allow for a four month extension of the commencement of construction date for 18 building allocations granted for FY 2006-07 and the movement of Sections I-IV of Exhibit B into a separate resolution.

**PASSED AND ADOPTED THIS 27th DAY OF MARCH, 2007, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "B"**DEVELOPMENT SCHEDULE MP-04-26: Cochrane-Mission Ranch
FY 2006-07 18 allocations/FY 2007-08 15 allocations/FY 2008-09 15 allocations**

| | Currently Approved Dates | Requested Date |
|----------------------------------|-------------------------------------|---------------------------|
| I. COMMENCE CONSTRUCTION: | | |
| FY 2006-07 (18 units) | 06-30-07 | <i>10-30-07</i> |
| FY 2007-08 (15 units) | 06-30-08 | |
| FY 2008-09 (15 units) | 06-30-09 | |

Failure to commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 24 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 07

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL APPROVING AN
AMENDED DEVELOPMENT SCHEDULE FOR
APPLICATION MP 04-26: COCHRANE-MISSION
RANCH (APN 728-32-010)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 48 building allotments for application MP-04-26 Cochrane-Mission Ranch; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, On May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 48 building allocations awarded to MP-04-26 Cochrane-Mission; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, in accordance with Policy PCP-06-01, the applicant is requesting to amend the development schedule to allow for a nine-month extension of the obtain building permit date for the 18, FY 2006-07 allotments; and

WHEREAS, the amended development schedule for application MP-04-26 Cochrane-Mission Ranch was considered by the Planning Commission at their regular meeting of March 27, 2007 at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Development Schedule for MP-04-26 Cochrane-Mission Ranch attached to this Resolution as Exhibit A.

PASSED AND ADOPTED THIS 27TH DAY OF MARCH 2007 AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

**DEVELOPMENT SCHEDULE MP-04-26: Cochrane-Mission Ranch
FY 2006-07 18 allocations/FY 2007-08 15 allocations/FY 2008-09 15 allocations**

| | Currently Approved Dates | Requested Dates |
|---|-------------------------------------|----------------------------|
| I. SUBDIVISION AND ZONING APPLICATIONS | | |
| Subdivision Application Filed: | 03-25-05 | |
| Zoning Amendment Application Filed: | | |
| 03-25-05 | | |
| II. SITE REVIEW APPLICATION | | |
| Application Filed: | 07-30-05 | |
| III. FINAL MAP SUBMITTAL | | |
| Map, Improvements Agreement and Bonds: | | |
| FY 2006-07 (18 units) | 07-30-06 | |
| FY 2007-08 (15 units) | 07-30-07 | |
| FY 2008-09 (15 units) | 07-30-08 | |
| IV. BUILDING PERMIT SUBMITTAL | | |
| Submit plans to Building Division for plan check: | | |
| FY 2006-07 (18 units) | 08-15-06 | |
| FY 2007-08 (15 units) | 08-15-07 | |
| FY 2008-09 (15 units) | 08-15-08 | |
| V. BUILDING PERMITS | | |
| Obtain Building Permits: | | |
| FY 2006-07 (18 units) | 09-30-06 | 06-30-07 |
| FY 2007-08 (15 units) | 09-30-07 | |
| FY 2008-09 (15 units) | 09-30-08 | |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 24 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

DIVIDEND HOMES, INC.
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037-2891
(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"

March 22, 2007

Mr. James Rowe
Planning Manager
City of Morgan Hill – Community Development
17555 Peak Ave.
Morgan Hill, CA 95037

Re: Amend Development Agreement - Alicante Phase 3B – MC 04-25
Planning Commission Meeting of March 27, 2007

Dear Mr. Rowe:

Since filing the application for the Development Agreement we have encountered additional delays, primarily relating to the final review and approval by SCVWD. That resulted in delays in the commencement of the project grading and street improvements. That work has now progressed sufficiently to permit us to pull all the permits for Phase 3A, and all the units in Phase 3A will be under construction prior to the June 30, 2007 deadline. However, the Lender will not permit us to pull any permits and commence construction on the Phase 3B units until at least half of the units in Phase 3A have been commenced.

Given the general slow down in the market, we must conservatively estimate that the construction may not be able to commence on all the units in Phase 3B (there are 18) until late this summer. Please note that all the street and pad development for Phase 3B has been done with Phase 3A, so that we will be able to commence construction of the homes as soon as market conditions allow and lender approval is obtained. The Building Permit issuance dates, if not covered by "soft date changes matrix" should also be extended for Phases 4 and 5.

We request that the Issuance of Permits for Phase 3B be extended to 10/30/07, and
Commencement of construction for Phase 3B to be extended to 10/30/07
Building Permit Issuance for Phase 4 to be extended to 4/30/08
Building Permit Issuance for Phase 5 to be extended to 4/30/09

Thank you.

Very truly yours,

DIVIDEND HOMES, INC.



Richard B. Oliver, President

RESOLUTION NO. 07-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-02: COCHRANE - LUPINE TO ALLOW FOR A FOUR- MONTH EXTENSION OF THE COMMENCE CONSTRUCTION DATE AND THE TRANSFER OF THE DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT "B" OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION (APN 728-34-022)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 36 building allotments for application MC-04-25: Cochrane - Lupine (18 allotments for FY 2006-07, 6 allotments for FY 2007-08, and 12 allotments for FY 2008-09); and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on July 6, 2005, the City Council adopted Ordinance No. 1728, N.S. which approved a development agreement and established a development schedule for the 36-unit development; and

WHEREAS, the applicant is requesting to amend the development agreement to allow for a four-month exception to the loss of building allocation for the 18, FY 2006-07 allotments; and

WHEREAS, the applicant is also requesting to amend the development schedule as found in Exhibit "B" of the development agreement to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-05-02: Cochrane - Lupine.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit A. The proposed amendment is to allow for a four-month extension of the commence construction date for the 18, FY 2006-07 building allotments and the transfer of Sections I-IV of Exhibit B into a separate resolution.

PASSED AND ADOPTED THIS 27th DAY OF MARCH, 2007, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT B

DEVELOPMENT SCHEDULE MC-04-25: COCHRANE – LUPINE
FY 2006-07 (18 allotments), FY 2007-08 (6 allotments), FY 2008-09 (12 allotments)

| | Currently Approved Dates | Requested Date |
|----------------------------------|-------------------------------------|---------------------------|
| I. COMMENCE CONSTRUCTION: | | |
| FY 2006-07 (18 units) | June 30, 2007 | Oct. 30, 2007 |
| FY 2007-08 (6 units) | June 30, 2008 | |
| FY 2008-09 (12 units) | June 30, 2009 | |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 3 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 07-__

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL APPROVING AN
AMENDMENT TO THE DEVELOPMENT
SCHEDULE FOR APPLICATION MC-04-25:
COCHRANE - LUPINE (APN 728-34-022)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 36 building allotments for application MC-04-25: Cochrane - Lupine (18 allotments for FY 2006-07, 6 allotments for FY 2007-08, and 12 allotments for FY 2008-09); and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDSCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, on July 6, 2005, the City Council adopted Ordinance No. 1728, N.S. which approved a development agreement and established a development schedule for the 36-unit development; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDSCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, in accordance with Policy PCP-06-01, the applicant is requesting to amend the development schedule to allow for an exception to the loss of building allocation as noted in the attached Exhibit A; and

WHEREAS, the amended development schedule for application MC-04-25: Cochrane - Lupine was considered by the Planning Commission at their regular meeting of March 27, 2007, at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Amended Development Schedule for MC-04-25: Cochrane - Lupine attached to this Resolution as Exhibit A.

PASSED AND ADOPTED THIS 27TH DAY OF MARCH 2007, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

DEVELOPMENT SCHEDULE MC-04-25: COCHRANE – LUPINE
FY 2006-07 (18 allotments), FY 2007-08 (6 allotments), FY 2008-09 (12 allotments)

| | Currently Approved Dates | Requested Dates |
|---|-------------------------------------|----------------------------|
| I. SUBDIVISION APPLICATION | | |
| Applications Filed: | March 25, 2005 | |
| II. FINAL MAP SUBMITTAL | | |
| Map, Improvements Agreement and Bonds: | January 13, 2006 | |
| IV. BUILDING PERMIT SUBMITTAL | | |
| Submit plans to Building Division for plan check: | | |
| FY 2006-07 (18 units) | March 31, 2006 | |
| FY 2007-08 (6 units) | March 31, 2007 | |
| FY 2008-09 (12 units) | March 31, 2008 | |
| V. BUILDING PERMITS | | |
| Obtain Building Permits: | | |
| FY 2006-07 (18 units) | August 15, 2006 | Oct. 30, 2007 |
| FY 2007-08 (6 units) | August 15, 2007 | April 30, 2008 |
| FY 2008-09 (12 units) | August 15, 2008 | April 30, 2009 |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 3 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

DAA 05-04
Main - Marad

SAN SAVIGNO LLC
385 WOODVIEW AVE., #100
MORGAN HILL, CA 95037
(408) 779-5900 FAX (408) 779-3840
roliver@dividendhomes.com

PLANNING DEPT.

OCT 17 2006

CITY OF MORGAN HILL

October 17, 2006

Mr. James Rowe
Community Development Department
City of Morgan Hill
17555 Peak Ave.
Morgan Hill, CA 95037

Re: San Savigno Project – DA – 05-04 - Amendment

Dear Rowe:

On August 9, 2006, we were notified that the San Savigno Project received an additional 8 allotments for the Fiscal year 2009-10. We previously received, for prior years, 26 allocations, make a total of 34 allocations. There was one replacement unit, making the total San Savigno Project 35 lots, such that the Project is now fully allotted. We need to amend the existing Development Agreement, DA 04-05, to add these additional 8 units to the Development Agreement.

Due to delays in the processing, in obtaining approvals for off-site dedications, a change in architects and in the developer (we purchased the Project from the original applicant, having closed escrow on the land in August of 2006), we are also requesting some modifications in the time frames set forth in Exhibit B to the Development Agreement.

I have, in addition, written to the Planning Commission and to the Director of our concern for possible delays being encountered due to the declining real estate market and loan constraints, which also suggest that we request additional extensions of time so that we do not have to come back and request a future amendment to the Development Agreement. Inasmuch as these possible real estate market driven delays have some uncertainty, and may be either greater or less than what we now expect, we are asking that the Development Agreement be amended with a provision that the Staff, with Director approval, be given the discretion to modify the "soft deadlines" set forth in Exhibit B to the Development Agreement.

Our request includes three specific areas of amendment:

1. Add an additional 8 units for Fiscal Year 2009-10
2. Amend the Time Schedule set forth in Exhibit B
3. Modify the provisions for Public Works Off-Site Commitments
4. Modify TDC Requirement

Item 2. The specific dates we are requesting be changed on Exhibit B are as follows:

| | | | |
|------|--------------------------------|----------|----------|
| III. | Final Map Submittal* | From | To |
| | 2006-07 (13 units) | 02-28-07 | 05-31-07 |
| | 2007-08 (5 units) | 10-31-07 | |
| | 2008-09 (8 units) | 10-31-08 | |
| | 2009-10 (8 units) | new | |
| IV. | Building Permit Submittal* | | |
| | 2006-07 (13 units) | 04-01-07 | 05-31-07 |
| | 2007-08 (5 units) | 01-31-08 | 03-31-08 |
| | 2008-09 (8 units) | 01-31-09 | 03-31-09 |
| | 2009-10 (8 units) | new | 03-31-10 |
| V. | Building Permit Issuance* | | |
| | 2006-07 (13 units) | 05-31-07 | 07-31-07 |
| | 2007-08 (5 units) | 03-31-08 | 05-31-08 |
| | 2008-09 (8 units) | 03-31-09 | 05-31-09 |
| | 2009-10 (8 units) | new | 05-31-10 |
| VI. | Commencement of Construction** | | |
| | 2006-07 (13 units) | 06-30-07 | 10-31-07 |
| | 2007-08 (5 units) | 04-30-08 | 6-30-08 |
| | 2008-09 (8 units) | 04-30-09 | 6-30-09 |
| | 2009-10 (8 units) | new | 6-30-10 |

*These are "soft dates" and we request that the Community Development Director be given, in the Development Agreement Amendment, the discretion to modify these dates upon appropriate showing to the satisfaction of the Director.

**The Commencement of Construction is a "hard date" and any change would require a future amendment to the development agreement. An application for such an amendment must be filed within the 30-cure period after written notice, and if not filed, then such allocations shall be lost.

Item 3. Modify the Public Works (Circulation Efficiency and Livable Communities) Off-site Commitments.

a. The Development Agreement should be clarified to show that the per unit commitments in the various categories should be based on a total of 34 units, not 35, since one unit in the Project replaces the existing home that is to be demolished.

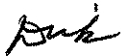
- b. Page 6, Item (j)(iii) is followed by four (4) bullet obligations. The cost for these four obligations could exceed \$200,000 and would be well over the total required expenditure \$149,600 (34 x \$4400). The Live Oak Path has been committed by at least one or two other developers. We would like the flexibility to work with Public Works and limit the dollar obligation to the \$149,000.
- c. Page 11, Item (n) Circulation, the commitment is for \$4,485/unit which is twice what is the Measure C requirement of \$2,200 per unit.
- d. Page 14, Item (iii). Clarify that any excess costs over the \$1100 per unit for the walk way to Live Oak High School can be met from the \$3,300 per unit School Safe Walking Route commitment.

It is our request that the total dollar commitment required by Measure C for the above items is \$11,000 per unit (including school safety walk, Public Works (not counting the Capital Improvement Fund or the Off-site Sewer Fund, which in any case would be in addition) times 34 units, for a total dollar obligation of \$374,000 for the 34 units in the Project. Our rough estimate at this time is that the actual costs will exceed . In the event that the actual costs exceed this amount, then we request the Development Agreement provide that we can apply the excess against other projects of this developer for off-site obligations within such other projects.

Item 4. Modify TDC Commitment TDC fees should only be collected on 34 units, not 35, since one unit replaced the exiting home which will be demolished. This changes the requirement from 1.4 TDC to 1.36 TDC.
Our application and filing fee is enclosed.

Very truly yours,

San Savigno LLC



By: Richard B. Oliver, President

Encl.

RESOLUTION NO. 07-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-04: E MAIN-MARRAD TO ALLOW FOR A FOUR MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE FOR FY 2006-07 AND A TWO MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATES FOR FY'S 2007-08 & 2008-09. ALSO RECOMMENDED IS THE TRANSFER OF THE DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT "B" OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION AND AMENDMENTS TO THE DEVELOPMENT AGREEMENT TEXT TO INCORPORATE ALLOCATION FOR FY 2009-10. (APN 726-16-028)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 34 building allocations for MP 04-19: E Main-Thrust/Marrad, 13 building allocations for FY 2006-07, 5 allocations for FY 2007-08 and 8 allocations for FY 2008-09 and 8 allocations for 2009-10.

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, On May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 34 building allocations award to MP 04-19: E Main-Thrust/Marrad; and

WHEREAS, the applicant is requesting to amend the approved development agreement to allow for a four month extension of the 13, FY 2006-07 allocations and a two month extension for both the FY 2007-08 and FY 2008-09 allocations; and

WHEREAS, the applicant is requesting to amend the approved development agreement to establish a development schedule for the 8 allocations for FY 2009-10 awarded to the project as part of City Council resolution 6045; and

WHEREAS, the applicant is requesting to amend the approved development agreement schedule as shown in Exhibit "A" to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, the applicant is requesting to amend paragraph 14 to provide clarification of the number of units subject to the agreement and clarification of the per unit fees as shown in the attached Exhibit "B"; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-05-04: E. Main-Marrad (San Savigno).

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit "A". The proposed amendment is to allow for a four month extension of the commencement of construction date for building allocations granted for FY 2006-07, and a 2 month extension of the commencement of construction dates for FY 2007-08 and FY 2008-09. Also recommended are the establishment of dates for the 2009-10 allocations and the movement of Sections I-IV of development agreement Exhibit B into a separate resolution.

SECTION 3. The Planning Commission recommends approval of the development agreement text amendments as shown in the attached Exhibit "B".

PASSED AND ADOPTED THIS 27th DAY OF MARCH, 2007, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

Exhibit A

EXHIBIT "B"

DEVELOPMENT SCHEDULE MC 04-19: E.Main Thrust

FY 2006-07, 13 allocations/FY 2007-08, 5 allocations

FY 2008-09, 8 allocations/ FY 2009-10, 8 allocations

| | Currently Approved Dates | Requested Date |
|----------------------------------|-------------------------------------|---------------------------|
| I. COMMENCE CONSTRUCTION: | | |
| FY 2006-07 (13 units) | 06-30-07 | 10-31-07 |
| FY 2007-08 (5 units) | 04-30-08 | 06-30-08 |
| FY 2008-09 (8 units) | 04-30-09 | 06-30-09 |
| FY 2009-10 (8 units) | | 06-30-10 |

Failure to commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 18 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

Exhibit B

Changes proposed to Development Agreement for Measure C application MC 04-19: E. Main Thrust as approved by Ordinance 1782 are shown below in ~~strike-out~~ for deleted text and ***shaded bold italic*** for additions to the text:

Page 6, Paragraph 14

(i) Property Owner agrees to include the following **Open Space** improvements in the development:

- (iii) The project shall purchase transferable development credits at a ratio of one TDC for every 25 units. The overall project contains ~~35~~ ***34*** units and is required to purchase a total of ***1.4*** TDC's. The per unit TDC payment shall be collected on a per unit basis at the time of building permit issuance. Building permits will not be granted unless this provision has been complied with to the satisfaction of the City Council.

(j) Property Owner agrees to include the following **Public Facility** features in the development:

- (iii) Project commits to install public facilities on/adjacent to project site, or as directed/designated by the City at a cost of at least ***a maximum cost of \$4,400 per allocated unit***, over and above other commitments, ~~per allocated unit.~~
- Obtain street dedication and install full street improvement including under grounding of existing overhead utilities on 2 adjoining properties located on City owned well site and the Ross property.
 - Install lighting, landscaping and irrigation along existing pathway from project boundary to Diana park, all on City owned property.
 - Widen existing pavement along north side of Main Avenue 7 feet to provide bicycle lane and pedestrian Pathway to Live Oak High School.

Page 8, Paragraph 14

(k) The Property Owner agrees to provide the following **Park and Recreation** improvements:

- (iv) Each project phases shall provide the following park amenities within the proposed park(s):
- ***Phase I :*** Dedicate ~~to HOA~~ and landscape the 1 acre park parcel and dedicate landscape the 6,600 sq. ft. parcel leading to Main.
 - ***Phase II:*** No improvements required.
 - ***Phase III:*** Install a ½ basket ball court, shade structure or gazebo and a tot lot (age appropriate play equipment/min 3 activities) within the one acre park.
 - ***Phase IV:*** ***Create and landscape the .5 acre open park in the south west corner of the project as well as install the landscaping on the path leading to Diana park. Park shall be dedicated to HOA with an easement for public access to Diana Park.***

Page 8, Paragraph 14

(l) Property Owner agrees to include the following **Housing Types & Housing Needs** in the development:

Phase IV (8-units)
0 Moderate Rate: 4 bedroom, 2.5 bath and approx. 1444 sq. ft.*
0 Low income BMR: 4 bedroom, 2.5 bath and approx. 1367 sq. ft.
0 Median income BMR: 4 bedroom, 2.5 bath and approx. 1367 sq. ft.
1 Single story unit
2 Units (30%) shall have porches, balconies, for any area viewed from the public right-of-way or multi-unit courtyards interior to the project
3 Units (50%) shall have side-loading, detached, rear garages, or two car garages with tandem parking space, to accommodate a third vehicle inside the garage.

Page 11, Paragraph 14

- (n) The Property Owner agrees to provide the following **Circulation** improvements:
- (i) Applicant agrees to install full street widening improvements on said properties located on E. Main Avenue at a cost of ~~\$2,200~~ 4,485.00/ unit. The cost of the offered dedication and public improvements shall be equal to or greater than \$2200 per unit.

Page 14, Paragraph 14

(r) The Property Owner agrees to provide the following **Livable Community** improvements:

- (iii) Provides widening, including sidewalk, along north side of E. Main Ave. to Live Oak High School. The cost of the sidewalk improvements shall be equal to or greater than \$1100 per unit. *Any excess costs over the \$1,100 per unit for the walkway to Live Oak High School can be met from the \$3,300 per unit School Safe Walking Route commitment.*

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF MORGAN HILL APPROVING AN AMENDED
DEVELOPMENT SCHEDULE FOR APPLICATION MP 04-19: E
MAIN-THRUST/MARRAD (APN 726-16-028)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 34 building allotments for application MP 04-19: E Main-Thrust/Marrad; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, On May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 34 building allocations award to MP 04-19: E Main-Thrust/Marrad; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, in accordance with Policy PCP-06-01, the applicant is requesting to amend the development schedule to allow for a 3-month extension of the final map submittal date for the 13, FY 2006-07 allotments, a 1-month extension of the building permit submittal date for the 13, FY 2006-07 allotments, a 2-month extension of the building permit submittal date for the 13, FY 2007-08 & FY 2008-09 allotments, a 2-month extension of the obtain building permit date for the 26, FY 2006-07, 2007-08 & 2008-09 allotments and the insertion of performance dates for the 8, FY 2009-10 allotments; and

WHEREAS, the amended development schedule for application MP 04-19: E Main-Thrust/Marrad was considered by the Planning Commission at their regular meeting of March 27, 2007 at which time the Planning Commission approved the amended development schedule.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Development Schedule for MP 04-19: E Main-Thrust/Marrad attached to this Resolution as Exhibit A.

**PASSED AND ADOPTED THIS 27TH DAY OF MARCH 2007, AT A REGULAR MEETING OF
THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

DEVELOPMENT SCHEDULE MC 04-19: E.Main Thrust
FY 2006-07, 13 allocations/FY 2007-08, 5 allocations/FY 2008-09, 8 allocations/FY 2009-10, 8 allocations

| | Currently Approved Dates | Requested Dates |
|---|-------------------------------------|----------------------------|
| I. SUBDIVISION AND ZONING APPLICATIONS Applications Filed: | 06-15-05 | |
| II. SITE REVIEW APPLICATION Application Filed: | 09-01-06 | |
| III. FINAL MAP SUBMITTAL Improvements Agreement and Bonds: | | |
| FY 2006-07 (13 units) | 02-28-07 | 05-31-07 |
| FY 2007-08 (5 units) | 10-31-07 | |
| FY 2008-09 (8 units) | 10-31-08 | |
| FY 2009-10 (8 units) | | 10-31-09 |
| IV. BUILDING PERMIT SUBMITTAL Submit plans to Building Division for plan check: | | |
| FY 2006-07 (13 units) | 04-01-07 | 5-31-07 |
| FY 2007-08 (5 units) | 01-31-08 | 3-31-08 |
| FY 2008-09 (8 units) | 01-31-09 | 3-31-09 |
| FY 2009-10 (8 units) | | 3-31-10 |
| V. BUILDING PERMITS Obtain Building Permits: | | |
| FY 2006-07 (13 units) | 05-31-07 | 07-31-07 |
| FY 2007-08 (5 units) | 03-31-08 | 05-31-08 |
| FY 2008-09 (8 units) | 03-31-09 | 05-31-09 |
| FY 2009-10 (8 units) | | 05-31-10 |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 18 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

DAA 05-07
Wright Ave.
PLANNING DEPT.

MAR 20 2007

CITY OF MORGAN HILL

MANA INVESTORS LLC
385 WOODVIEW AVE., #100
MORGAN HILL, CA 95037
(408) 779-5900 FAX (408) 779-3840
roliver@dividendhomes.com

March 20, 2007

Mr. James Rowe
Planning Manager
City of Morgan Hill – Community Development

Re: Amendment Development Agreement – MC 04-27 – Mallorca (Wright-Hale
Planning Commission Meeting of March 27, 2007

Dear Mr. Rowe:

Since filing the application for the Development Agreement we have encountered additional delays, primarily relating to the SCVWD requirement for a new EIR just for the Creek Work. Although that EIR is completed, SCVWD will not commence their review until the Notice has been filed and the EIR certified. That process will further delay the project.


Although the Map is ready to record and architectural plans have been submitted for plan check, paid), due to the extensive grading and site work and the fact that SCVWD approval may be several months off, we may be delayed with meeting the deadline for both the issuance of the building permits and the commencement of construction for the homes. Since this is a small project, we will commence the entire project of 15 homes as soon as the Final Map can be recorded.

We request that the Issuance of Permits for Phase 1 and 2 be extended to 9/30/07, and Commencement of construction to 3/30/08.

Thank you.

Very truly yours,

Manana Investors LLC



By: Richard B. Oliver
President

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL OF DEVELOPMENT AGREEMENT
AMENDMENT APPLICATION, DAA-05-07: WRIGHT
AVE.-MANANA TO ALLOW FOR A NINE MONTH
EXTENSION OF THE COMMENCEMENT OF
CONSTRUCTION DATE AND THE TRANSFER OF
THE DEVELOPMENT AGREEMENT PERFORMANCE
DATES OUT OF EXHIBIT "B" OF THE
DEVELOPMENT AGREEMENT AND INTO A
SEPARATE RESOLUTION. (APN 764-32-017 & 018)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 15 building allocations for MP 04-27: Wright Ave. – Dividend: 6 allocations for FY 2006-07 and 9 allocations for FY 2007-08.

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, On May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 15 building allocations awarded to MP 04-27: Wright Ave. - Dividend ; and

WHEREAS, the applicant is requesting to amend the approved development agreement to allow for a 9-month exception to the loss of building allocation for FY 2006-07, 6 allocations; and

WHEREAS, the applicant is requesting to amend the approved development agreement to amend the development agreement schedule in Exhibit "B" to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-05-07: Wright Ave.-Dividend.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit A. The proposed amendment is to allow for a 9 month extension of the commencement of construction date for building allocations granted for FY 2006-07 and the movement of Sections I-IV of Exhibit B into a separate resolution.

**PASSED AND ADOPTED THIS 27th DAY OF MARCH, 2007, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

Exhibit A

EXHIBIT "B"

**DEVELOPMENT SCHEDULE MP-04-27: Wright Ave.-Dividend
FY 2006-07, 6 allocations/FY 2007-08, 9 allocations**

| | Currently Approved Dates | Requested Date |
|----------------------------------|-------------------------------------|---------------------------|
| I. COMMENCE CONSTRUCTION: | | |
| FY 2006-2007 (6 units) | 06-30-07 | <i>03-30-08</i> |
| FY 2007-2008 (9 units) | 06-30-08 | |

Failure to commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 8 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 07-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF MORGAN HILL APPROVING AN AMENDED
DEVELOPMENT SCHEDULE FOR APPLICATION MP 04-27:
WRIGHT AVE. - DIVIDEND (APN 764-32-017 & 018)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 15 building allotments for application MP-04-27: Wright Ave.-Dividend and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, On May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 15 building allocations awarded to MP 04-27: Wright Ave. - Dividend ; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, in accordance with Policy PCP-06-01, the applicant is requesting to amend the development schedule to allow for a six-month extension of the obtain building permit date for the 6, FY 2006-07 allotments; and

WHEREAS, the amended development schedule for application MP-04-27: Wright Ave.-Dividend was considered by the Planning Commission at their regular meeting of March 27, 2007, at which time the Planning Commission approved the amended development schedule.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Development Schedule for MP-04-27: Wright Ave.-Dividend attached to this Resolution as Exhibit A.

**PASSED AND ADOPTED THIS 27TH DAY OF MARCH 2007 AT A REGULAR MEETING OF
THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

**DEVELOPMENT SCHEDULE MP-04-27: Wright Ave.-Dividend
FY 2006-07, 6 allocations/FY 2007-08, 9 allocations**

| | | Currently Approved Dates | Requested Dates |
|-------------|---|-------------------------------------|----------------------------|
| I. | SUBDIVISION AND ZONING APPLICATIONS | | |
| | Subdivision Application Filed: | 08-11-05 | |
| | Zoning Amendment Application Filed: | 08-11-05 | |
| II. | SITE REVIEW APPLICATION | | |
| | Application Filed: | 03-31-06 | |
| III. | FINAL MAP SUBMITTAL | | |
| | Map: | | |
| | FY 2006-2007 (6 units) | 06-28-06 | |
| | FY 2007-2008 (9 units) | 02-28-07 | |
| | Improvements Agreement and Bonds: | 06-28-06 | |
| | FY 2006-2007 (6 units) | 02-28-07 | |
| | FY 2007-2008 (9 units) | | |
| IV. | BUILDING PERMIT SUBMITTAL | | |
| | Submit plans to Building Division for plan check: | | |
| | FY 2006-2007 (6 units) | 09-30-05 | |
| | FY 2007-2008 (9 units) | 06-15-06 | |
| V. | BUILDING PERMITS | | |
| | Obtain Building Permits: | | |
| | FY 2006-2007 (6 units) | 03-30-07 | 09-30-07 |
| | FY 2007-2008 (9 units) | 09-30-07 | |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 8 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

DAA 04-08
Tilton-Capriano

PLANNING DEPT.

MAR 21 2007

CITY OF MORGAN HILL

DIVIDEND HOMES, INC.
385 WOODVIEW AVE., #100
MORGAN HILL, CA 95037
(408) 779-5900 FAX (408) 779-3840
roliver@dividendhomes.com

March 20, 2007

Mr. James Rowe
Planning Manager
City of Morgan Hill – Community Development

Re: Amendment Development Agreement – Glenrock/Tilton
Planning Commission Meeting of March 27, 2007

Dear Mr. Rowe:

I did not see this item on the "Agenda Items for March 27th" that appeared at the end of the Agenda for the Planning Commission Meeting Agenda for March 13th. Please let me know if this request can be heard at the March 27th meeting.

Since filing the application for the Development Agreement we have encountered additional delays, primarily relating to going through the Architectural Review Process for new plans to be approved. That process resulted in MH Engineering not being able to complete the revised site plan. MH Engineering is now in the process of completing the revised Final Map for Phase 8, as well as the improvement drawings. They will not be completed for another month, after which there will be at least a two month process to go through Public Works plan check and approval. Mr. Garcia is planning to complete all the improvements (for Phases 8, 9 and 10) prior to the recordation of the Final Map for Phase 8, which will actually speed up the process; however, Building Permits cannot be issued until after the Final Map is recorded, thus the need for some additional time for the Building Permits for Phase 8.

We request the one additional extension from that previously requested by Mr. Garcia:

| <u>Phase</u> | <u>Building Permit Issuance</u> |
|---------------------|---|
| Phase 8 (20 units) | from 9/3/0/06 to 9/30/07 (additional request) |
| Phase 9 (15 units) | from 9/30/07 to 6/25/08 (same as prior request) |
| Phase 10 (12 units) | from 9/30/08 to 6/25/09 (same as prior request) |

Very truly yours,

Dividend Homes, Inc.

Richard B. Oliver

By: Richard B. Oliver, President

Cc: Rocke Garcia

DAA-04-08
Capriano

We are requesting the following changes to our Development Schedule MP-02-03 Tilton
Glenrock: FY 2005-06 34 allocations/FY 2006-07 20 allocations/ FY 2007-08 15
allocations/FY 2008-09 12 allocations

- I. Subdivision and Zoning Applications no change/approved
- II. Site Review Application no change/approved

III. Final Map Submittal

Map, Improvements, Agreement and Bonds

| | |
|-----------------------|------------------------------|
| FY 2005-06 (34 units) | 05-30-06 (24 units approved) |
| FY 2006-07 (20 units) | 05-30-07 |
| FY 2007-08 (15 units) | 05-30-08 |
| FY 2008-09 (12 units) | 05-30-09 |

IV. Building Permit Submittal

Submit plans to Building Division for plan check

| | |
|-----------------------|----------|
| FY 2005-06 (34 units) | 06-15-06 |
| FY 2006-07 (20 units) | 06-15-07 |
| FY 2007-08 (15 units) | 06-15-08 |
| FY 2008-09 (12 units) | 06-15-09 |

V. Building Permits

Obtain Building Permits

| | |
|-----------------------|----------|
| FY 2005-06 (34 units) | 06-25-06 |
| FY 2006-07 (20 units) | 06-25-07 |
| FY 2007-08 (15 units) | 06-25-08 |
| FY 2008-09 (12 units) | 06-25-09 |

Commence Construction (does not change)

| | |
|-----------------------|----------|
| FY 2005-06 (34 units) | 06-30-06 |
| FY 2006-07 (20 units) | 06-30-07 |
| FY 2007-08 (15 units) | 06-30-08 |
| FY 2008-09 (12 units) | 06-30-09 |

We ask that the Planning Commission and City Council approve the above schedule.

Thank you,



Rocke Garcia
Glenrock Builders, Inc.

DIVIDEND HOMES, INC.
385 WOODVIEW AVE., SUITE 100
MORGAN HILL, CA 95037-2891
(408) 779-5900 FAX (408) 779-3840
"roliver@dividendhomes.com"

October 13, 2006

Mr. James Rowe
Planning Manager
City of Morgan Hill – Community Development
17555 Peak Ave.
Morgan Hill, CA 95037

Re: Amend Development Agreement - Villas at Capriano MP 02-03 (Tilton-Glenrock)

Dear Mr. Rowe:

At the request of Roche Garcia of Glenrock Builders, I have been assisting with the modifications of the site plan and architectural plans in order to comply with the commitments made for the Project and the obligations set forth in the existing Development Agreement, dated July 1, 2005. Mr. Garcia has requested that I prepare this letter to specifically address the deadlines set forth in Exhibit "B" to the existing Development Agreement.

We hereby request a modification to the time periods, for Phases 8, 9 and 10, in Exhibit "B" to provide for the following:

| | |
|---|------------------|
| II. Site Review Applications (for Phase 8, 9 and 10): | December 1, 2006 |
| III. Final Map Submittal | |
| FY 2006-07 (Phase 8) (20 units) | 04-30-07 |
| FY 2007-08 (Phase 9) (15 units) | 02-28-08 |
| FY 2008-09 (Phase 10) (12 units) | 02-28-09 |
| IV. Building Permit Submittal | |
| FY 2006-07 (Phase 8) (20 units) | 05-31-07 |
| FY 2007-08 (Phase 9) (15 units) | 03-31-08 |
| FY 2008-09 (Phase 10) (12 units) | 02-28-09 |
| V. Building Permits | |
| FY 2006-07 (Phase 8) (20 units) | 09-30-07 |
| FY 2007-08 (Phase 9) (15 units) | 05-31-08 |
| FY 2008-09 (Phase 10) (12 units) | 04-30-09 |
| VI. Commence Construction | |
| FY 2006-07 (Phase 8) (20 units) | 1-31-08 |
| FY 2007-08 (Phase 9) (15 units) | 9-30-08 |

c. We also request a provision in the Development Agreement which would provide authorization to the Planning Director to extend the dates set forth on Exhibit B, for any of the years, by as much as six months upon presentation of facts to warrant such extension at the discretion of the Planning Director, with any appeal there from requiring an application for a amendment to the Development Agreement. Real Estate Market conditions, including lender unwillingness to fund additional starts due to market conditions, can be considered by the Planning Director in making her decision.

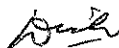
The reason for these requested extensions to the time periods is two fold: First, Dividend Homes, Inc. has just recently been given the opportunity to complete the last three phases of the Capriano Project. There were no existing plans developed for us to take over and present to the City, so we engaged the services of Dahlin Group, as architects to develop the plans and prepare the presentation package for the Architectural Review Board. Changes are required to the plot plans and improvement drawings to accommodate the new floor plans. This necessitated a new submission, which was completed in October and the first hearing before the Architectural Review Board was not scheduled until January of 2007. Working drawings and improvement drawings can not commence until after the Arch and Site Review approval. The amount of work for the architect and civil engineer to dictates to a significant degree the dates requested for Phase 8 in FY 2006-2007.

The Second reason for requesting the delays, which carries through to FY 2007-08 and 2008-09 is because of declining sales, market conditions, and lender reluctance to allow too many starts ahead of sales. The soft deadlines previously in effect create financial hardship by having to pay upfront submittal, permit and school fees sometimes many months prior to the need to actually commence construction. But most important we just cannot ignore market conditions. There are major uncertainties in the marketplace at the present time, and none of us can predict, with any degree of accuracy, what will be the extent and/or the duration of the downturn. We would like to avoid having to come multiple times, at significant time and cost to both us and to the City to process additional extensions for additional market driven delays. Thus, we would request reasonable consideration and flexibility for this possibility at this time.

Rocke and I will be pleased to respond to any questions you might have.

Very truly yours,

DIVIDEND HOMES, INC.



Richard B. Oliver, President

Cc: Glenrock Builders

RESOLUTION NO. 07-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-04-08: TILTON-GLENROCK TO ALLOW FOR THE TRANSFER OF THE DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT "A" OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. (APN's 764-09-005, 006, 007, 008, 009, 010 & 014)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 81 building allocations for MP-02-03: Tilton-Glenrock; FY 2005-06 34 allocations/FY 2006-07 20 allocations/FY 2007-08 15 allocations/FY 2008-09 12 allocations

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 81 building allocations award to MP-02-03: Tilton-Glenrock; and

WHEREAS, the applicant is requesting to amend the approved development agreement to amend the development agreement schedule in Exhibit "B" to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-04-08: Tilton-Glenrock.

**PASSED AND ADOPTED THIS 27th DAY OF MARCH, 2007, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "B"

DEVELOPMENT SCHEDULE MP-02-03: Tilton-Glenrock

FY 2005-06 34 allocations/FY 2006-07 20 allocations

FY 2007-08 15 allocations/FY 2008-09 12 allocations

**Currently Approved
Dates**

I. COMMENCE CONSTRUCTION:

| | |
|-----------------------|----------|
| FY 2005-06 (34 units) | 06-30-06 |
| FY 2006-07 (20 units) | 01-31-08 |
| FY 2007-08 (15 units) | 09-30-08 |
| FY 2008-09 (12 units) | 06-30-09 |

Failure to commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 40 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 07

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL APPROVING AN
AMENDED DEVELOPMENT SCHEDULE FOR
BUILDING ALLOCATIONS FY 2005-06 THROUGH FY
2008-09 AWARDED TO APPLICATION MP-02-03:
TILTON-GLENROCK.**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 81 building allotments for application MP-02-03: Tilton-Glenrock (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, on May 18, 2005 the City Council adopted Ordinance Number 1725 which set a development schedule for the 81 building allocations award to MP-02-03: Tilton-Glenrock; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, the amended development schedule for application MP-02-03: Tilton-Glenrock was considered by the Planning Commission at their regular meeting of March 27, 2007, at which time the Planning Commission approved the amended development schedule.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Development Schedule for MP-02-03: Tilton-Glenrock attached to this Resolution as Exhibit A.

**PASSED AND ADOPTED THIS 27TH DAY OF MARCH 2007, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"

DEVELOPMENT SCHEDULE MP-02-03: Tilton-Glenrock
FY 2005-06 34 allocations/FY 2006-07 20 allocations/FY 2007-08 15 allocations/FY 2008-09 12 allocations

| | Currently Approved Dates | Requested Dates |
|---|-------------------------------------|----------------------------|
| I. SUBDIVISION AND ZONING APPLICATIONS | | |
| Zoning Amendment & Subdivision Application Filed: | 06-30-04 | |
| II. SITE REVIEW APPLICATION | | |
| Application Filed: | 06-30-05 | |
| III. FINAL MAP SUBMITTAL | | |
| Maps & Improvements Agreement and Bonds:: | | |
| FY 2005-06 (34 units) | 02-28-06 | |
| FY 2006-07 (20 units) | 07-30-06 | 05-30-07 |
| FY 2007-08 (15 units) | 07-30-07 | 05-30-08 |
| FY 2008-09 (12 units) | 07-30-08 | 05-30-09 |
| IV. BUILDING PERMIT SUBMITTAL | | |
| Submit plans to Building Division for plan check: | | |
| FY 2005-06 (34 units) | 03-15-06 | |
| FY 2006-07 (20 units) | 08-15-06 | 06-15-07 |
| FY 2007-08 (15 units) | 08-15-07 | 06-15-08 |
| FY 2008-09 (12 units) | 08-15-08 | 06-15-09 |
| V. BUILDING PERMITS | | |
| Obtain Building Permits: | | |
| FY 2005-06 (34 units) | 05-30-06 | |
| FY 2006-07 (20 units) | 09-30-06 | 09-30-07 |
| FY 2007-08 (15 units) | 09-30-07 | 06-25-08 |
| FY 2008-09 (12 units) | 09-30-08 | 06-25-09 |

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 40 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.